

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

<b>In re:</b>	)	
	)	<b>Case No. 3:19-bk-1971</b>
<b>CAPSTONE PEDIATRICS, PLLC,</b>	)	
	)	<b>Chapter 11</b>
<b>Debtor.</b>	)	
	)	
	)	
<b>CDS BUSINESS SERVICES, INC.</b>	)	
<b>d/b/a NEWTEK BUSINESS CREDIT.</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Adv. Proc. No. 3:20-ap-90140</b>
	)	
	)	
<b>AMERICA CARES TRUST d/b/a</b>	)	
<b>CARENATION</b>	)	
	)	
<b>Defendant.</b>	)	

---

**AGREED ORDER MODIFYING PRELIMINARY INJUNCTION**

---

Pursuant to the Court's September 21, 2020 Order, a status conference was held via telephone in this matter on Tuesday, September 22, 2020 at 10:30 a.m. to address the Expedited Motion and Memorandum In Support filed by Defendant America Cares Trust, Inc., doing business as CareNation ("CareNation") for Limited Relief from the Preliminary Injunction (Docket Entry No. 16). Said Preliminary Injunction was entered in this matter on the expedited

motion of Plaintiff, CDS Business Services, Inc., doing business as Newtek Business Credit (“CDS”) on September 18, 2020. (Docket Entry No. 12.)

Counsel for CareNation, CDS, Bank of America, the Debtor, and the U.S. Trustee were all participants in the status conference. It appearing (as evidenced by the signatures of the undersigned counsel) that CareNation, CDS and the Debtor are in agreement on modification of the Preliminary Injunction under the terms set forth below, and based on the representation of counsel for Bank of America and the United States Trustee at the status conference that they do not object to the substance and relief ordered herein, it is hereby **ORDERED** that the September 18, 2020 Preliminary Injunction in this matter (Docket Entry No. 12) shall be **MODIFIED** as follows:

1. Immediately upon entry of this Order, Bank of America is hereby authorized and directed to transfer a sum in the amount of Two Hundred Four Thousand Nine Hundred Twenty Eight and and 67/100 Dollars (\$204,928.67) from that certain Bank of America account in the name of Debtor In Possession account number XXXXXXXX239 to that certain Bank of America account in the name of Debtor In Possession account number XXXXXXXX837, said amount representing proceeds of accounts receivable (and not Paycheck Protection Program loan amounts) improperly redirected from Account XXXXXXXX837 to XXXXXXXX239 (such transfer hereinafter the “**837 Transfer**” for purposes of this Order).
2. Immediately upon completion of the 837 Transfer, but not until after said transfer has been fully effectuated, Bank of America is hereby authorized and directed to issue from the remaining balance in Account XXXXXXXX239 a cashier’s check in the amount of Seventy-Two Thousand and 9/100 Dollars (\$72,000.00) payable to America Cares Trust, Inc. d/b/a CareNation, which amount reflects a portion of the

funds borrowed from Bank of America pursuant to Paycheck Protection Program loan #       , and in which funds neither CDS nor Debtor claim any interest, for the express purpose of CareNation disbursing payroll payments due and owing as of September 18, 2020 (such check hereinafter the “**Payroll Check**” for purposes of this Order). CareNation shall deposit the Payroll Check into a separate demand deposit account for purposes of making payroll for September 18, 2020, and for no other purpose.

3. Except as otherwise ordered above, the Preliminary Injunction remains in full force and effect, pending further Orders of this Court. All claims, defenses and other matters regarding the subject matter of this adversary proceeding are hereby **RESERVED**.

It is so **ORDERED**.

*[This order was signed and entered electronically as indicated at the top of the first page.]*

**SUBMITTED FOR ENTRY:**

**BONE McALLESTER NORTON PLLC**

/s/ Sam J. McAllester III

Sam J. McAllester III, #03461  
William J. Haynes III, #17398  
511 Union Street, Suite 1600  
Nashville, Tennessee 37219  
(615) 238-6300 Phone  
(615) 238-6301 Facsimile  
Email: smcallester@bonelaw.com  
whaynes@bonelaw.com

*Attorney for America Cares Trust,  
d/b/a CareNation*

/s/ Daniel H. Puryear

Daniel H. Puryear #18190  
Puryear Law Group PLLC  
104 Woodmont Boulevard, Suite 201  
Nashville, TN 37205

615-255-4859 (phone)  
615-630-6003 (fax)  
[dpuryear@puryearlawgroup.com](mailto:dpuryear@puryearlawgroup.com)

*Counsel for the Plaintiff,  
CDS Business Services, Inc.  
d/b/a Newtek Business Credit*

-and-

/s/ David W. Houston  
David W. Houston. IV #20802  
Burr & Forman LLP  
222 Second Avenue South, Suite 2000  
Nashville, TN 37201  
615-724-3215 (phone)  
615-724-3315 (fax)  
[dhouston@burr.com](mailto:dhouston@burr.com)

*Counsel for Capstone Pediatrics, PLLC*

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was filed electronically on September 23, 2020. Notice of this filing was sent by operation of the Court's electronic filing system to all those parties specifically requesting electronic service and as indicated on the electronic filing receipt. Parties may also access this filing through the Court's electronic filing system.

Daniel H. Puryear  
Puryear Law Group PLLC  
104 Woodmont Boulevard, Suite 201  
Nashville, TN 37205  
*Counsel for the Plaintiff,*  
*CDS Business Services, Inc.*  
*d/b/a Newtek Business Credit*

David W. Houston IV  
Burr & Forman LLP  
222 Second Avenue South, Suite 2000  
Nashville, TN 37201  
[dhouston@burr.com](mailto:dhouston@burr.com)  
*Counsel for Capstone Pediatrics, PLLC*

Daniel Fleming  
Wong Fleming  
821 Alexander Road, Suite 200  
Princeton, NJ 08540  
[dfleming@wongfleming.com](mailto:dfleming@wongfleming.com)  
*Counsel for Bank of America, NA\*

Megan Seliber  
Office of the U.S. Trustee, Trial Attorney  
318 Customs House, 701 Broadway  
Nashville, TN 37203  
[megan.seliber@usdoj.com](mailto:megan.seliber@usdoj.com)  
*Counsel for the United States Trustee*

/s/Sam J. McAllester III

Sam J. McAllester III